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GRAND INQUEST OF MARYLAND

Minority Report of Daniel G. Joseph, Member of Grand Inquest Committee  
to the General Assembly of Maryland, 1929

Submitted March 30, 1929.

TO THE GENERAL ASSEMBLY OF MARYLAND:

As a member of the committee appointed in pursuance of Section 24 of Article 3 of the Constitution of Maryland, I beg to report that, while I find myself in accord with the majority of the committee in some of their findings of fact as well as in their recommendations, I am unable to agree entirely therewith, and, in addition, feel that the circumstances surrounding the operation of the State Roads Commission require mention of matters not touched upon in the majority report. For this reason I have felt compelled to file a separate report for action by the General Assembly.

PART I.

MATTERS COVERED BY THE MAJORITY REPORT.

Insofar as the majority report calls for the preservation of a proper sense of proportion, I heartily concur. In the exercise of this sense of proportion, however, I must differ as to some conclusions, especially with reference to those later discussed, in which that proportion should be worked out with reference to political as opposed to personal honesty. I agree also in the conclusion of the committee that very little in the way of new matter has been disclosed, and the reason for non-disclosure will be discussed in greater detail in Part 2 of this report. It goes almost without saying, also, that I, too, am satisfied that the "Revolving Fund" was the prime factor in the personal dishonesty which has been revealed. The custom of submitting vouchers on the commission's stationery for the bills and invoices ordinarily used by creditors of the State Roads Commission was an invitation, in effect, to dishonesty. I concur, of course, with the conclusion that the failure to discover the thefts by those held out as auditors and accountants reveals an incompetence or a state of inactivity of which no satisfactory explanation has been advanced or can be given.

I dissent from the conclusion reached by the majority that all concerned with



the administration of the state roads, with the exception of those already convicted in the criminal courts, should be enumerated. There are matters not yet fully investigated, as will be shown in Part II of this report, which may possibly lead to another and different conclusion as to persons, who, while not technically members of the commission, had, by reason of official or political influence or domination, control over some of its activities.

The outstanding figure, of course, in the administration of the State Roads has been Mr. John M. Mackall. Along with the remainder of the interested public I have been eager to ascertain his connection, if any, with the irregularities and shortcomings revealed in the public press. I awaited his appearance before the committee with an open mind, because, although at times somewhat skeptical, to say the least, I have felt that those interested in learning the truth should have the opportunity of confronting and of grilling him, and that, he likewise, should have the opportunity and his day in court to present whatever defence he might have.

After the closest possible observation of Mr. Mackall, who was on the stand for days at a time, subject to examination and cross examination by all-comers, I am entirely satisfied of his personal honesty and integrity. He has conducted himself under these trying circumstances, as, in my judgment, only an honest man could. Not only has he had a frank answer ready for every question asked, but he has volunteered information and has also voluntarily exposed to scrutiny and examination by the Nelligan Commission all his personal accounts and records and included therewith those of his family. Mr. Mackall should be given a clean bill of health at the bar of public opinion insofar as his personal honesty is concerned. His manly bearing under fire entitles him to no less, even at the hands of those who have felt, as I have, that the State Roads situation needed a house-cleaning.

The revelation of Mr. Mackall's position raises at once the interesting question as to the motive in retaining him in office when suspicion against him was blackest, only to remove him immediately before the meeting of the legislature. If there had been ground for such suspicion, he should have been removed at once and given an opportunity immediately to defend himself; and if, on the other hand, as subsequently developed, he was honest, his removal, immediately before the opportunity for exon-



eration was afforded to him, was absolutely unjustified. It is apparent that he was the victim of a sense of political expediency upon the part of others and that his removal was a belated and insincere gesture, designed to draw a herring across the trail.

## PART 2.

### MATTERS OMITTED BY THE MAJORITY REPORT.

There is little room for doubt but what, when Mr. Mackall accepted his original appointment as Chief Engineer of the Commission, he was fired with the ambition to make of the Maryland State Roads system an enduring monument to engineering skill. The real source of trouble, I am satisfied, has been political interference. Mr. Mackall has testified at this hearing, for instance, and I know it to be a fact, that he was opposed to the construction of the Grain Highway. This road, the source of much of the subsequent troubles of the commission, was forced upon him as a result of a political maneuver whereby the road was exchanged for votes in the General Assembly of 1922, the quid pro quo being the defeat of certain legislation dealing with horse racing. From that time on, the building of roads was rendered unsystematic by the increasing tendency to employ them as a means of bargaining for and against legislation. In 1924, for example, House Bill No. 55 was passed unanimously by the House of Delegates only to meet a severe defeat in the Senate. Its defeat was marked by the promise of the construction of roads in places selected by some of those voting against the measure. It has been tactics of this kind, I am convinced, that have made fruitless the original plans of the commission.

Early in the hearing, I made two requests of the committee which would enable it to bring out into the open facts not hitherto revealed to the public. Both these requests were denied, a fact wherein lies the explanation of the failure of this committee to develop any new matter. The first of these requests was for detectives to follow out the leads, secured by me, reflecting upon the disposition of property of the commission, especially such property as was included in the mass of war material given to the State by the Federal Government. It was hardly to be expected that those called before the committee would know how it was disposed of, or, if they knew, that they would tell. The second request made by me was for a list of the politicians and others who had been employed by the commission in the purchase of rights of way.

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The list was not supplied and consequently it has been impossible even to estimate the amount of money thus spent, all indications being that it was disproportionately large to the services received. Appointments for these purposes were made through the offices of the Attorney General of Maryland, apparently with the unofficial approval of the Chief Executive of the State.

One most important source of information as to the status of road building in Maryland has been entirely neglected. That is the question of costs. As long ago as 1927, during the session of the General Assembly, before the slightest suspicion of scandal had reached the public, I called attention upon the floor of the House of Delegates to the unusually high costs of Maryland roads as compared with costs elsewhere. The only safe check upon the conclusion that the irregularities and thefts have been completely revealed, will take the form of a comparison of these costs.

Another matter omitted by the majority report is the inactivity of the Attorney General of the State in the entire affair. The entire public has been aware for over a year that there have been irregularities, forgeries, and thefts, yet the Attorney General, upon his unwilling appearance before this committee, excused his inactivity by saying that he had not been "notified". At other times he has based his failure to proceed in an endeavor to collect the amounts paid out by banks on forged endorsements by claiming that the original checks were unavailable to him and were being retained by the State's Attorney for Baltimore City. The State's Attorney, Herbert R. O'Connor, Esq., on the other hand, has said that the checks have been available for some months to the Attorney General. Aside from the checks, however, it is manifest that many of these convicted in the Criminal courts have property which may well be reached by the civil process, and the acquisition of which can be traced to the use of the State's money. Substantial amounts might well have been recovered had prompt action been instituted, but every day's delay renders recovery more improbable.

Reference has already been made to the fact that clues to the disposition of the government war material have been received by me and that I have vainly endeavored to procure from the committee the services of detectives in order to obtain conclusive proof as to its whereabouts. Failing in this, I have reported the same, together with clues as to the disposition of cash and other material, to the Nelligan Committee by





whom it is to be hoped they will be properly traced.

### **PART 3.**

#### **CONCLUSION.**

Owing to the delay in starting the work of the committee and owing to the extreme pressure of legislative duties upon many of the members thereof, too much could not be expected in the way of tangible results. For this reason, as has been indicated, further disclosures must be left to the Nelligan Commission. Some interesting conclusions, however, may be drawn from the work so far done.

It is apparent that the age-old distinction between personal honesty and political honesty still persists. While not to be exaggerated, it is, after all, deplorable that the State's money should be expended in unauthorized celebrations and unwarranted gifts. The giving away of an ink stand, purchased with the State's money, is exactly on a par with the employment of a bar tender as a stenographer to the General Assembly. The grant of a road, where no road is needed, is in the same category. In neither case does the State get value for the money expended. Unfortunately such actions have been too long tolerated by the American people. The answer to the problem lies in education and civic action. It should be made plain that the State's funds and the State's property are as sacred as the funds and property of private citizens and are not to be used as a consideration for political favors. The people, by a judicious use of their ballots, are always in a position to teach those who make use of public office to build up political machinery through such methods that conduct of this kind will not be tolerated and that long continuance in office is not to be purchased at such a price.

Respectfully submitted,

DANIEL C. JOSEPH,

Member of Grand Inquest Committee.

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